

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
CIVIL ACTION NO.: 1:18-cv-259**

MARYBEE BROOKS,                     )  
  )  
                  Plaintiff,                     )  
  )  
vs.   )  
  )  
INDABA SCIENTIFIC, INC.             )  
f/k/a PHENIX RESEARCH             )  
PRODUCTS, INC.,                     )  
  )  
                  Defendant.                 )

**CERTIFICATION AND REPORT  
OF F.R.C.P. 26(f) CONFERENCE  
AND DISCOVERY PLAN**

NOW COMES Plaintiff, MARYBEE BROOKS (“Plaintiff”), by and through her undersigned counsel, and Defendant INDABA SCIENTIFIC, INC. f/k/a PHENIX RESEARCH PRODUCTS, INC. (“Defendant”), by and through its undersigned counsel, and submit the following Certification and Report of F.R.C.P. 26(f) Conference and Discovery Plan.

1.     Certification of Conference. Pursuant to Fed. R. Civ. P. 26(f), a meeting was held via telephone on October 24, 2018 at 1:30 P.M. Attorney Craig Leis attended on behalf of Plaintiff. Attorneys Sabrina Presnell Rockoff and Murphy Horne Fletcher attended on behalf of Defendant.

2.     Pre-Discovery Disclosures. The information required by Fed. R. Civ. P. 26(a)(1) will be exchanged by November 8, 2018.

3. Discovery Plan. The parties jointly propose to the Court the following discovery plan:

(a) All discovery shall be commenced in time to be completed by June 10, 2019.

(b) Discovery limits:

1. Maximum of twenty (20) interrogatories by each party to any other party.

2. Maximum of twenty-five (25) requests for admissions by each party to any other party.

3. Maximum of six (6) depositions by Plaintiff and six (6) by Defendant.

(c) Reports from retained experts under Rule 26(a)(2) will be due:

1. From Plaintiff by January 9, 2019.

2. From Defendant by February 11, 2019.

3. Supplementations under Rule 26(e) will be due thirty (30) days thereafter.

4. Other Items.

(a) The parties do not request a conference with the Court before entry of the scheduling order.

(b) All potentially dispositive motions should be filed by July 9, 2019.

(c) Settlement cannot be evaluated prior to the completion of discovery on June 10, 2019. The parties agree that settlement may be enhanced by use of a Mediated Settlement Conference. The parties agree that the Mediated Settlement Conference will occur by June 24, 2019.

(d) Final lists of witnesses and exhibits under Rule 26(a)(3) are due:

a. From Plaintiff thirty (30) days before trial.

b. From Defendant twenty (20) days before trial.

(e) If the case is ultimately tried, the trial is expected to take approximately three (3) to five (5) days.

(f) The parties have discussed the issue of consent to the jurisdiction of a U.S. Magistrate Judge, and there is not unanimous consent.

5. Please identify any other matters regarding discovery or case management which may require the Court's attention:

(a) Based on the subject matter of this action, the parties anticipate that records containing Defendant's confidential and proprietary information and Plaintiff's confidential medical information will be subject to discovery. Prior to disclosure of any such records or information that may be deemed confidential and private, the parties desire to have a Protective Order issued

by this Court and thus shall submit a proposed Protective Order in advance of any such disclosure.

(b) To the extent that any scheduling matters are not addressed by this Certification and Report, the parties will comply with Judge Reidinger's Standing Pretrial Order and Case Management Plan.

**AGREED UPON BY:**

/s Craig L. Leis  
Craig Leis  
*Counsel for Plaintiff*

November 1, 2018  
Date

/s Murphy Horne Fletcher  
Murphy Horne Fletcher  
*Counsel for Defendant*

November 1, 2018  
Date

## **CERTIFICATE OF SERVICE**

I hereby certify that on this 1st day of November, 2018, I electronically filed the foregoing **Certification and Report of F.R.C.P. 26(f) Conference and Discovery Plan** with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Philip J. Gibbons, Jr.  
phil@gibbonsleis.com  
Craig L. Leis  
craig@gibbonsleis.com  
Gibbons Leis, PLLC  
14045 Ballantyne Corporate Place, Ste. 325  
Charlotte, North Carolina 28277

This the 1st day of November, 2018.

/s/ Murphy Horne Fletcher

Murphy Horne Fletcher  
N.C. Bar No. 44471